



COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"Enriching Lives"

JAMES A. NOYES, Director

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ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
www.ladpw.org

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

December 4, 2003

IN REPLY PLEASE
REFER TO FILE: WM-9

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012-2713

Dear Supervisors:

**ESTUARY SAMPLING PROGRAM
CONTRIBUTION AND PARTICIPATION
IN THE SOUTHERN CALIFORNIA BIGHT 2003
REGIONAL MONITORING PROJECT
ALL SUPERVISORIAL DISTRICTS
3 VOTES**

**IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY
OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:**

1. Authorize the Director of Public Works, or his designee, to enter into a Cooperative Agreement with the Southern California Coastal Water Research Project (SCCWRP) to contribute \$600,000 as the Los Angeles County Flood Control District's fair share of the cost of performing the Estuary Sampling Program, which is a component of the \$7.4 million Southern California Bight 2003 Regional Monitoring Project (Bight '03 Project).
2. Authorize the Director of Public Works, or his designee, to sign the enclosed Cooperative Agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The 2001 National Pollutant Discharge Elimination System (NPDES) Stormwater Permit names the District as the principal permittee and in such capacity requires that we participate on the steering committee for the Bight '03 Project and complete an Estuary Sampling Program in the County of Los Angeles. The Bight '03 Project refers to the latest California coastal environmental study to be performed by SCCWRP. Previous

such regional coastal monitoring projects were conducted by SCCWRP in 1994 and 1998. The project includes the Estuary Sampling Program that will measure the possible impact that stormwater runoff has on five major estuaries in the County by collecting and analyzing sediment samples at the estuaries. The District's participation and partial funding of the Bight '03 Project will satisfy one of our NPDES Permit compliance requirements.

SCCWRP is a California Joint Powers Authority, widely recognized as a leading water research association, governed by a commission comprised of the Orange County Sanitation Districts, City of Los Angeles Bureau of Sanitation, County Sanitation Districts of Los Angeles County, State Water Resources Control Board, Regional Water Quality Control Board (Los Angeles, San Diego, and Santa Ana Regions), City of San Diego Metro Wastewater Department, and the United States Environmental Protection Agency Region IX for marine environmental research. Under this Cooperative Agreement, SCCWRP will perform the Estuary Sampling Program in accordance with the Bight '03 Coastal Ecology Workplan prepared for the Bight '03 Project.

Implementation of Strategic Plan Goals

Entering into this Cooperative Agreement will meet the County Strategic Plan Goal of Organizational Effectiveness as these services are not required frequently and SCCWRP has the expertise that is not available within Public Works to complete this project. SCCWRP's previous experience and expertise in the field allows it to provide these services in a more efficient manner.

FISCAL IMPACT/FINANCING

The District's contribution to the Estuary Sampling Program will not exceed \$600,000. The necessary Flood Control funds have been budgeted for the Fiscal Year 2003-04. There will be no increase in net County cost.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Cooperative Agreement has been reviewed and approved by County Counsel.

The Honorable Board of Supervisors
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ENVIRONMENTAL DOCUMENTATION

A finding of environmental impact is not required for this Cooperative Agreement. The Estuary Sampling Program is not a project within the meaning of the California Environmental Quality Act and, therefore, is not subject to further environmental review.

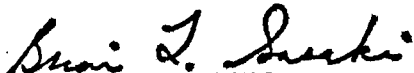
IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no adverse impact on current services.

CONCLUSION

Please return three approved copies of this letter to Public Works.

Respectfully submitted,


JAMES A. NOYES
Director of Public Works

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Enc.

cc: Chief Administrative Office
County Counsel

DRAFT

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (Agreement), is made and entered into, by and between the Los Angeles County Flood Control District (**District**), a political subdivision of the State of California, and the Southern California Coastal Water Research Project (**SCCWRP**), a California Joint Powers Authority.

WITNESSETH

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region (**Los Angeles Regional Board**), issued a National Pollutant Discharge Elimination System Municipal Stormwater Permit (**NPDES Permit**) to the **District**, the County of Los Angeles, and 84 cities on December 13, 2001; and

WHEREAS, the **NPDES Permit** names the **District** as the "principal permittee" and in such capacity dictates that the **District** participate in regional monitoring committees to help establish ongoing regional programs that address public health concerns, monitor trends in natural resources and near shore habitats, and assess regional impacts from all pollutant sources; and

WHEREAS, **SCCWRP** is a California Joint Powers Authority governed by a commission comprised of the Orange County Sanitation Districts, City of Los Angeles Bureau of Sanitation, County Sanitation Districts of Los Angeles County, California State Water Resources Control Board, California Regional Water Resources Control Board (Los Angeles, San Diego, and Santa Ana Regions), City of San Diego Metro Wastewater Department, and the U.S. Environmental Protection Agency ("**USEPA**") Region IX for marine environmental research; and

WHEREAS, **SCCWRP**, the **USEPA**, the State Water Resources Control Board, three Regional Water Quality Control Boards, including the **Los Angeles Regional Board** and participating dischargers, have organized efforts to implement a regional monitoring program for the Southern California Bight; and

WHEREAS, the Southern California Bight is an open embayment in the coast between Point Conception and Cape Colnett (south of Ensenada, Baja California); and

WHEREAS, **SCCWRP** was responsible for Southern California Bight studies conducted in 1994 and 1998, which include studies in the areas of microbiology, water quality, sediment chemistry, sediment toxicity testing, benthic infauna, demersal fish, and bioaccumulation; and

WHEREAS, SCCWRP and the Los Angeles Regional Board have proposed a similar study for 2003 referred to as the Southern California Bight 2003 Regional Monitoring Project (**Bight '03 Project**); and

WHEREAS, in the NPDES Permit, the Los Angeles Regional Board has established the goal referred to as the Estuary Sampling Program (**Program**) to sample estuaries and other sites located within the County of Los Angeles for sediment chemistry, sediment toxicity, and benthic macroinvertebrate community to determine the spatial extent of sediment fate from stormwater, and the magnitude of the effects of stormwater, including creating a map for each estuary to enable effective sediment monitoring to determine trends and accumulation; and

WHEREAS, the Program is one element of the **Bight '03 Project**; and

WHEREAS, the NPDES Permit requires the **District** to participate on the steering committee for the **Bight '03 Project** and contribute towards the cost of the **Program**; and

WHEREAS, it is the intent of the parties for the District to fulfill its requirement under the **NPDES Permit** relating to the **Program** by the execution of this **Agreement**; and

WHEREAS, as part of the Program, the NPDES Permit requires a maximum of 25 sites to be sampled in each estuary/mouth (Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, and Dominguez Channel) and 25 samples outside of the direct outfalls (to assess cumulative effects), once during the term of the **NPDES Permit**; and

WHEREAS, SCCWRP prepared a Bight '03 Coastal Ecology Workplan (**Workplan**) for the **Bight '03 Project** (a copy of the **Workplan** is attached hereto referred as Attachment A), in part to meet the requirements of the **Program** as listed in the **NPDES Permit**; and

WHEREAS, the District and the Los Angeles Regional Board want **SCCWRP** to be responsible for conducting the **Program** pursuant to the **Workplan**, and

WHEREAS, the entire Bight '03 Project is expected to cost \$7.4 million and will be partially funded by a number of participating agencies in the Southern California Bight, including the **District**, pursuant to this **Agreement**; and

WHEREAS, the District will therefore cooperate with **SCCWRP** through a contribution not to exceed \$600,000 to reimburse **SCCWRP** for the cost of performing the **Program** in accordance with the **Workplan**;

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the parties and of the premises herein contained, it is agreed hereby to as follows:

(1) DISTRICT AGREES:

To reimburse **SCCWRP**, based upon progressive completion of the **Workplan**, an amount not to exceed \$600,000. Payment shall be dispersed upon completion of the following milestones based on the **Workplan**:

- a. Upon completion of sample collection and submission of a written summary report satisfactory to the **District**, the **District** shall pay **SCCWRP** \$250,000.
- b. Upon completion of the lab analyses (microbiology, toxicity, chemistry, and benthic), and submission of a written summary report satisfactory to the **District**, the **District** shall pay **SCCWRP** \$200,000.
- c. Upon submission of draft reports, satisfactory to the **District**, received from each of the sampling groups (microbiology, toxicity, chemistry, and benthics), the **District** shall pay **SCCWRP** \$100,000.
- d. Upon submission of the final report, satisfactory to the **District**, documenting the **Program's** findings, the **District** shall pay **SCCWRP** \$50,000. The final report must include a map of each estuary depicting degraded areas and the spatial distribution of sediment from stormwater. Furthermore, the final report shall suggest appropriate locations for regular sediment monitoring based on the **Program's** findings.

The **District** will provide payments to **SCCWRP** within 30 days of receiving a written invoice from **SCCWRP**. Notwithstanding the foregoing, delivery of any documents or items to the **District**, including those listed in the **Workplan**, shall not limit any indemnity rights of the **District** or relieve **SCCWRP** of all obligations relating to the **Program**, the **Workplan**, or from **SCCWRP's** obligations to be responsible for completion of the **Program** pursuant to the **Workplan** in a professional and competent manner to meet the requirements of the **NPDES Permit**.

(2) SCCWRP AGREES:

- a. To be responsible for completion of the **Program** in accordance with the attached **Workplan**.
- b. To be responsible for expenditure of the **District** funds only in the manner as set forth in Section 1 above.

- c. To prepare and submit invoices to the **District** to allow reimbursement consistent with Section 1 above. **SCCWRP** shall direct invoices to:

County of Los Angeles Department of Public Works
Attention: Fiscal Division, Accounts Payable
P.O. Box 7508
Alhambra, CA 90801-7508

- d. To submit a summary lab analysis report of the **Program** to the **District** and coordinate a review of the report among the Bight '03 Coastal Ecology Committee Members.
- e. To submit a final report and map of each estuary depicting degraded areas and the spatial distribution of sediment from stormwater to the **District**.
- f. That neither the **District** nor any agent, officer, or employee of the **District** or the County shall be responsible for any damage or liability occurring by reason of any acts or omissions on the part of **SCCWRP** under or in connection with any work, authority, or jurisdiction delegated to **SCCWRP**.
- g. Notwithstanding the provisions of Government Code Section 895.4, **SCCWRP** shall indemnify, defend, release, and hold harmless the **District**, the County of Los Angeles, and its special districts, elected and appointed officers, employees, and agents from and against any and all liability and expense, including defense costs and legal fees, arising from or connected with claims and lawsuits for damages or workers' compensation benefits relating to the **Program** including, without limitation, bodily injury, death, personal injury, property damage, or in connection with a claim for failure to complete the **Program** in accordance with the **Workplan**, that may result from **SCCWRP's** negligence. However, **SCCWRP** shall not be obligated to indemnify the **District** for liability and expense arising from the sole negligence of the **District**.
- h. **SCCWRP** shall provide the **District** full access and use of all data, maps, models, reports, or any other writings or work product developed or relating to the **Program** at no charge.

(3) **IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:**

- a. Other than the specific responsibilities and obligations described in this **Agreement**, the **District** incurs no responsibility or obligation to **SCCWRP** and/or its consultants and/or other parties.

- b. This **Agreement** shall continue in effect until the **Program** is completed by **SCCWRP**. The **District** reserves an absolute right to reassess this **Agreement**, after which the **District** may decide whether to terminate the **Agreement**. The **Agreement** may be terminated for convenience by the **District** upon giving **SCCWRP** a thirty (30) day written notice of termination. Notwithstanding the foregoing, if the **Agreement** is terminated for convenience, **SCCWRP** shall return to the **District** a prorated amount of the funding based on deliverable milestones within thirty (30) days of such termination. Upon such termination the **District** shall pay **SCCWRP** the **District's** proportionate share of incurred costs as of the date of the thirty (30) day written notice of termination.
- c. This **Agreement** may also be terminated for a material breach at such time as any party hereto is in default concerning a material term hereof after receiving written notice of such breach or fails to cure such default within a reasonable amount of time. If the **Agreement** is terminated for **SCCWRP's** material breach, **SCCWRP** shall return to the **District** a prorated amount of the funding based on deliverable milestones within thirty (30) days of such termination. Upon such termination, the **District** shall pay **SCCWRP** the **District's** proportionate share of incurred costs as of the date of the thirty (30) day written notice of termination.
- d. Notwithstanding the foregoing, if the **Program** is not completed, this **Agreement** shall be terminated and any and all money contributed by **District** to **SCCWRP** under this **Agreement** that has not yet been paid to third parties or can be recouped by **SCCWRP** shall be returned to the **District** within thirty (30) days. **SCCWRP** shall use its best efforts to recoup said monies.
- e. Moreover, notwithstanding all other deliverables under this **Agreement**, within 30 calendar days of receipt of notice of termination of this **Agreement**, **SCCWRP** shall provide **District** with a cumulative report in a form capable of assimilation and use by **District**. Said report shall consist of all documents and data accumulated to the date of termination. The **District** shall have the right to immediate access and use of all data collected under this **Agreement** and to any and all records of **SCCWRP** relating to the **Program** or the **Bight '03 Project**, without charge, upon a written request. The data shall be delivered by **SCCWRP** to the **District** in electronic format using current available software agreed upon by both parties.
- f. If any portion of this **Agreement** is declared by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions thereof shall remain in full force and effect.

- g. This **Agreement** constitutes the entire agreement between the **District** and **SCCWRP** and may be modified only by mutual consent of both parties. Any such modification shall not be effective unless and until approved by a duly authorized representative of **SCCWRP** and the **District**.
- h. **SCCWRP** may retain consultants or subcontract any of its obligations in this **Agreement** only upon prior consent of the **District**.
- i. Any official notices or correspondence related to this **Agreement** shall be in writing and mailed by first-class, prepaid postage to the following address:
- To: County of Los Angeles
Department of Public Works
Attention: Dan Lafferty
Watershed Management Division
900 South Fremont Avenue, 11th Floor
Alhambra, CA 91803
Telephone: (626) 458-4325
Fax: (626) 457-1526
- j. In no event shall the **District** be obligated to contribute more than Six Hundred Thousand Dollars (\$600,000) toward completion of the **Program**.
- k. The recitals set out on page 1 are incorporated into and shall constitute a part of this **Agreement**.
- l. The **District** is authorized to take such further action as may be appropriate to carry out the terms of this **Agreement**.

IN WITNESS WHEREOF, the parties hereto have caused this **Agreement** to be executed by their respective officers, duly authorized, by **SCCWRP** on _____, 2003, and by the COUNTY OF LOS ANGELES on _____, 2003.

COUNTY OF LOS ANGELES
Acting on behalf of the Los Angeles
County Flood Control District

By _____
Director of Public Works

APPROVED AS TO FORM:

LLOYD W. PELLMAN
County Counsel

By _____
Deputy

SOUTHERN CALIFORNIA COASTAL
WATER RESEARCH PROJECT

By _____
STEVEN B. WEISBERG
Executive Director

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